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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Uwe Briem  
Appl. No.: 09/194,286  
Filed: November 23, 1998  
Title: A METHOD FOR OPTIMIZING THE UTILIZATION OF CONNECTING  
SECTIONS IN SYSTEMS IN WHICH INFORMATION IS TRANSMITTED IN  
DATA PACKETS  
Art Unit: 2663  
Examiner: Ronald B. Abelson  
Docket No.: 112740-044

Commissioner for Patents  
Washington, DC 20231

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JUN 25 2002  
Technology Center 2600

**RESPONSE TO OFFICE ACTION**

Sir:

The present remarks are in response to the Office action entered in the above identified application and mailed on March 12, 2002. The drawings were objected to because Fig. 2 was not designated as Prior Art. A proposed drawing correction is included with this response. Further, the Examiner provided a lengthy dissertation on the proper contents of an Abstract of the invention, but failed to point to objectionable content of the present Abstract. Applicant will gladly comply with any requirements for amending the Abstract when objectionable subject matter is brought to his attention.

Next, the claim numbering was objected to. The number of claims originally filed in the PCT application on which the present application is based included 7 claims. However, an amendment was filed in the PCT application and only 6 claims remained at the time the application was nationalized. In a preliminary amendment filed with the U.S. National Application claims 1-7 were cancelled although only 6 claims were pending. Improperly numbered new claims 8-17 were added. The Examiner renumbered the new claims as claims 7-15. However, this also was in error, as the new claims should have been numbered 7-16. Applicant respectfully submits that claim 16 (formerly claim 17) is also pending in the application.

Substantively, claims 7, 9, 11, 13, and 15 stand rejected under 35 U.S.C. §103 as being unpatentable over the admitted prior art described in the specification in view of U.S. Patent No. 5,734,650 to Hayter et al. Furthermore, claims 8, 10, 12, and 14 were rejected over the admitted

prior art disclosed in the specification in view of Hayter, and further in view of U.S. Patent No. 5,828,878 to Bennett. Applicant respectfully traverses.

As the Examiner correctly points out, the prior art described in the Background Of The Invention section of the specification teaches providing a queue identifier which is stored in a packet header. The Examiner relies on Hayter for teaching a method and apparatus for transmitting data packets/ATM cells providing a first scheduling means for lower transmission rate data packets and providing a second scheduling method for upper transmission rate data. According to the Examiner it would have been obvious to one of ordinary skill in the art to combine the teaching of the admitted prior art with that of Hayter et al. to arrive at the invention claimed in independent claim 7 and the subsequent dependent claims. However, even if one of ordinary skill in the art would have been motivated to combine Hayter et al. with the prior art described in the Background Of The Invention of the present invention (a point not conceded by the Applicant) the resulting combination does not disclose the invention as a whole as claimed in independent claim 7.

Claim 7 calls for, among other things, providing a first scheduling method by means of which connection parameters, which are representative of lower transmission rates of the data packets, are guaranteed during a transmission process; and providing a second scheduling method which may precede the first scheduling method depending on the queue identifier, wherein the connection parameters which are representative of upper transmission rates of the data packets are limited during the transmission process. While Hayter et al. apparently disclose a first scheduling method for lower transmission rates (Fig. 2 element 30) and a second scheduling method for upper transmission rates (Fig. 2 element 32), Hayter et al. do not disclose a method or system wherein the second scheduling method may precede the first scheduling method depending on the queue identifier. It should be noted that Hayter et al.'s sustainable cell rate calendar 30 is connected in series with the peak cell rate calendar 32. Packets are first subjected to the sustainable cell rate calendar 30, then to the peak cell rate calendar 32. There are no provisions which allow the peak cell rate calendar 32 to precede the sustainable cell rate calendar 30. Furthermore, whether the sustainable cell rate calendar 30 or the peak cell rate calendar processes data packets first is not determined by a queue identifier.

Therefore, the combination cited by the examiner does not teach or suggest every element of the claimed invention. Consequently, the rejection under 35 U.S.C. §103 is improper and

should be withdrawn. Furthermore, all of the remaining claims depend either directly or indirectly from claim 7. Bennett is cited for additionally teaching that a weighted fair algorithm is desirable for providing fair service to sessions contending for a common resource in a packet switched network. However, this does not remedy the lack of any teaching or suggestion of a second scheduling method which may precede the first scheduling method depending on the queue identifier in the primary references as called for in the base claim. Therefore, the dependent claims are allowable for all the same reasons as claim 7.

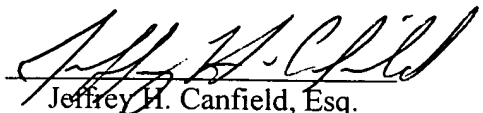
For these reasons, Applicant respectfully submits that all of the claims as they presently stand all in condition for allowance. Applicant therefore requests that the Examiner allow the claims move the application to issue. However, if there are any remaining issues the Examiner is encourage to call Applicants' attorney, Jeffrey H. Canfield at (312) 807-4233 in order to facilitate a speedy disposition of the present case.

If any additional fees are required in connection with this response they may be charged to deposit account no. 02-1818.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY



Jeffrey H. Canfield, Esq.

Reg. No. 38,404

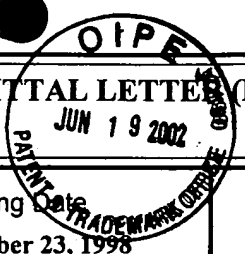
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2663

<b>AMENDMENT TRANSMITTAL LETTER (Large Entity)</b>		Docket No. 112740-44	
Applicant(s): Uwe Briem			
Serial No. 09/194,286	Filing Date November 23, 1998	Examiner Ronald B. Abelson	Group Art Unit 2663



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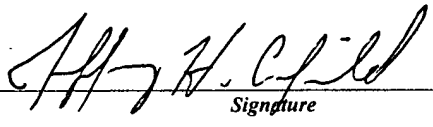
TO THE ASSISTANT COMMISSIONER FOR PATENTS:

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Transmitted herewith is an amendment in the above-identified application.  
The fee has been calculated and is transmitted as shown below.

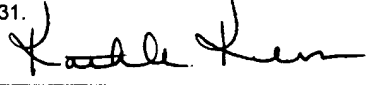
CLAIMS AS AMENDED					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	-	20 =	0 x	\$18.00	\$0.00
INDEP. CLAIMS	-	3 =	0 x	\$84.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

- ☒ No additional fee is required for amendment.
- ☐ Please charge Deposit Account No. \_\_\_\_\_ in the amount of \_\_\_\_\_  
A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 02-1818  
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  - ☐ Any additional filing fees required under 37 C.F.R. 1.16.
  - ☐ Any patent application processing fees under 37 CFR 1.17.

  
Signature

Dated: June 12, 2002

Jeffrey H. Canfield, Esq. (38,404)  
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I certify that this document and fee is being deposited on June 12, 2002 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence
Kathleen Kern
Typed or Printed Name of Person Mailing Correspondence

CC: